

CALIFORNIA STATE PERSONNEL BOARD MEETING*
801 Capitol Mall
Sacramento, California

Public Session Location - 801 Capitol Mall
Sacramento, California, Room 150
Teleconference – 320 West 4th Street
Los Angeles, CA, Suite 620

Closed Session Location - 801 Capitol Mall
Sacramento, California Room 141
Teleconference - 320 West 4th Street
Los Angeles, CA, Suite 620

FULL BOARD MEETING MINUTES

AUGUST 12, 2004

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

Members Present:

William Elkins, President
Ron Alvarado, Vice President
Sean Harrigan, Member
Anne Sheehan, Member
Maeley Tom - Member

2. REPORT OF THE EXECUTIVE OFFICER - Floyd Shimomura,
Executive Officer, State Personnel Board

A. The new Executive Officer, Floyd Shimomura, was sworn in. He expressed gratitude to the Board for his appointment, thanked Laura Aguilera, Assistant Executive Officer, for help in getting started in his new job, and

* The State Personnel Board Summary Minutes can be obtained at the following Internet address: <http://www.spb.ca.gov/calendar.htm>

extended appreciation to the SPB staff for a warm welcome.

- B. The State Budget was adopted and almost all of the SPB's \$600,000 budget augmentation survived the Governor's veto. Special appreciation was given to Board member Anne Sheehan, for her help in preserving the augmentation.
 - C. The California Performance Review (CPR) was released and it proposed, among other things, that the SPB be preserved but that it be combined with the Department of Personnel Administration (DPA) in a new "Human Resources Division" within a proposed "Governor's Office of Management & Budget".
 - D. Ted Edwards gave a "final report" on proposed EEO regulations to the Board before his retirement and was presented with a certificate of appreciation for 39 years of state service, almost all of it with the State Personnel Board.
3. REPORT OF THE CHIEF COUNSEL - Karen Brandt, -Senior Staff Counsel
- A. Connerly v. SPB - On May 4, 2004, the Third District Court of Appeal issued an unpublished decision finding that the real parties in interest are jointly and severally liable, along with the state agency parties, to the plaintiff for the payment of his attorneys' fees. The advocacy groups that comprise the real parties in interest filed a petition for review in the California Supreme Court. On August 11, 2004, the California Supreme Court granted review.
 - B. Roe v. SPB and the Department of Justice – On July 22, 2004, the First District Court of Appeal issued a decision for partial publication granting Roe's writ petition and finding that, even though Roe had submitted his resignation effective September 24, 1992, he could still pursue his appeal for reinstatement from wrongful termination and seek lost back pay, interest and benefits. In addition, the court found that Roe was entitled to back pay for the department's Skelly violation to May 5, 1999,

the date the Board adopted its decision. In the unpublished portion of the decision, the court concluded that this matter must be remanded to SPB to determine whether the department had good cause to terminate Roe.

- C. Sanchez v. SPB – The appellant in this matter has filed a writ petition in the Third District Court of Appeal, asking the court to determine whether a department, pursuant to Government Code section 19574.1, must compel its employees to be interviewed by an appellant who has been disciplined and has sought such interviews prior to the hearing before SPB.
 - D. CASE v SPB and Department of Industrial Relations – The hearing on CASE's writ petition to compel disclosure of candidates' names on eligible lists is scheduled for August 13 at 9:00 a.m. before Judge Cadei of the Sacramento Superior Court.
 - E. Henning v. California Department of Corrections and SPB – The oral argument before the Third District Court of Appeals is scheduled for August 18 at 9:30. This matter challenges a precedential decision issued by the Board that applied the most recent provisions of the Fair Employment and Housing Act and found that a state department must engage in the interactive process before it may deny an employee's request for reasonable accommodation and medically demote that employee to a different classification.
4. NEW BUSINESS
(Items may be raised by Board Members for scheduling and discussion at future meetings.)
- No New Business
5. REPORT ON LEGISLATION – Sherry Hicks
- No Report Given
6. HEARING – PSC #04-03
Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master

Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief.

Persons participating:

Denise W. Lewis, Staff Counsel, California Department of Corrections, representing department
Harry J. Gibbons, Attorney, California State Employees Association, representing appellant

CLOSED SESSION OF THE STATE PERSONNEL BOARD

7. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS
Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

8. ORAL ARGUMENT
MARYLAND PAGE, CASE NO. 03-3703A
Appeal from five-percent reduction in salary for twelve months
Correctional Officer
Ironwood State Prison – Blythe
Department of Corrections

Persons participating:

Monrow A. Mabon, Staff Counsel, California Department of Corrections, representing department
Bill Godfrey, Staff Legal Counsel, California Correctional Peace Officers Association, representing appellant

CLOSED SESSION OF THE STATE PERSONNEL BOARD

9. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY THE ADMINISTRATIVE LAW JUDGES

The Board deliberated and voted on matters submitted at prior hearings; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by the administrative law judges of the State Personnel Board or by the Board itself. (See items 13 A, D, and E in the agenda and below.)(Government Code Sections 11126(d), and 18653.)

10. PENDING LITIGATION

As discussion of pending litigation in open session would be prejudicial, the Board conducted closed session conferences with legal counsel and received advice as necessary regarding pending litigation as listed in the agenda. [Government Code Sections 11126(e)(1) and 18653.]

11. RECOMMENDATIONS TO THE LEGISLATURE

The Board deliberated on recommendations to the Legislature as listed in the agenda. [Government Code Section 18653.]

12. RECOMMENDATIONS TO THE GOVERNOR

The Board deliberated on recommendations to the Governor. [Government Code Section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

On Adjournment:

13. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF SEPTEMBER 1-2, 2004, IN LOS ANGELES, CA

BOARD ACTIONS

14. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF JULY 20, 2004

ACTION: Adopted on August 12, 2004

VOTE: Elkins, Alvarado, Harrigan, Sheehan and
Tom – Aye

15. ACTION ON SUBMITTED ITEMS

(See Agenda Page 24)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on this agenda under Evidentiary Cases.

16. EVIDENTIARY CASES

The Board Administrative Law Judges conducts Evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

On August 12, 2004, the Board adopted by majority vote (Elkins, Alvarado, Harrigan, Sheehan and Tom - Aye), in the following decisions presented by Karen Brandt, Senior Staff Counsel, State Personnel Board.

A. BOARD CASES SUBMITTED

These cases have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting.

ANDREW CIRNER, CASE NO. 03-2241EA

Appeal from denial of request for
reasonable accommodation
Senior Psychiatric Technician
Department of Mental Health

ACTION: The Board adopted a decision rejecting the appeal from a denial of request for reasonable accommodation. (Elkins did not participate in this vote.)

RICHARD COELHO, CASE NO. 02-1796R*
Appeal from constructive medical termination
Fish and Game Warden
Department of Fish and Game
ACTION: The Board adopted a precedential decision granting appellant's request for an order to show cause and ordering appellant reinstated to his peace officer's duties. (Alvarado and Sheehan did not participate in this vote.)

SHANNON FROEMING, CASE NO. 03-2871EA
Appeal from denial of request for reasonable accommodation
Employment Program Representative
Employment Development Department
ACTION: The Board adopted a decision rejecting the appeal from a denial of request for reasonable accommodation. (Elkins did not participate in this vote.)

RONALD GALI, CASE NO. 03-0462A
Appeal from dismissal
Native American Spiritual leader
California State Prison – Folsom
Department of Corrections
ACTION: The Board adopted a decision sustaining the dismissal. (Elkins and Harrigan did not participate in this vote.)

ELIZABETH HERRERA, CASE NO. 03-2220A
Appeal from medical termination
Administrative Support coordinator I
California State University - San Jose
ACTION: The Board adopted a decision finding that it has jurisdiction to review this matter and is remanding it to the Administrative Law Judge. (Elkins and Harrigan did not participate in this vote.)

*Adopted as Precedential Decision #04-03. NOTE: Precedential Decisions of the State Personnel Board can be obtained at the following Internet address: **www.spb.ca.gov** under "**Decisions.**"

PAUL H. KEMP, Case No. 01-2841

Appeal from dismissal

Teacher Assistant - Youth Correctional Reception
Center and Clinic - Sacramento

Department of the Youth Authority

ACTION: The Board adopted a decision modifying
the dismissal to a 45-day suspension and ordering
back pay, interest and benefits. (Elkins and Alvarado
did not participate in this vote.)

JENNIFER KILL, CASE NO. 02-2164B

Appeal for determination of back salary,
benefits and interest

Supervising Cook

California Correctional Institution - Tehachapi

NO ACTION

RAY MARTINEZ, CASE NO. 03-3344

Appeal from dismissal

Correctional Officer

Substance Abuse Treatment Facility – Corcoran

Department of Corrections

ACTION: The Board adopted a decision sustaining
the dismissal. (Harrigan dissented and Elkins did not
participate in this vote.)

MARGARET A. MEJIA, CASE NO. 03-1848

Appeal from dismissal

Psychiatric Technician (Safety)

Department of Mental Health

ACTION: The Board adopted a decision
sustaining the dismissal. (Harrigan dissented and
Elkins did not participate in this vote.)

CHRISTOPHER MIRAMONTES, CASE NO. 03-2299

Appeal from five-percent reduction in
salary for six months

Special Agent

Department of Corrections

ACTION: The Board adopted a decision revoking the
adverse action and ordering back pay, interest and
benefits. (Elkins and Alvarado did not participate in
this vote.)

ALICE VAN-THU, CASE NO. 03-0413

Appeal from automatic resignation

Administrative Support Coordinator I

California State University

ACTION: The Board adopted a decision denying appellant's request for reinstatement. (Harrigan and Sheehan did not participate in vote.)

BEVERLY WILSON, CASE NO. 03-1150A

Appeal from dismissal

Administrative Support Assistant II

California State University

ACTION: The Board adopted a decision sustaining the dismissal, but ordering back pay, interest and benefits for respondent's Skelly violation. (Harrigan and Sheehan did not participate in vote.)

B. CASES PENDING

- Oral Arguments

These cases are on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

MARYLAND PAGE, CASE NO. 03-3703A

Appeal from five-percent reduction

In salary for twelve months

Correctional Officer

California State Prison – Blythe

Department of Corrections

ACTION: Submitted.

C. CHIEF COUNSEL RESOLUTIONS

ANTOINETTE TUTT, CASE NO. 02-3781

Appeal from demotion

Correctional Administrator

Ironwood State Prison - Blythe

Department of Corrections

ACTION: The Board issued a resolution denying appellant's request for an order to show cause without prejudice to appellant's right to seek a judicial remedy.

- Court Remands

These cases have been remanded to the Board by the court for further Board action.

NONE

- Stipulations

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

- Proposed Decisions

These are ALJ proposed decisions submitted to the Board for the first time.

LUIS AVINA, CASE NO. 04-0273

Appeal from demotion

Painter

California State University - Fresno

ACTION: Proposed decision rejected by Board and remanded to Administrative Law Judge.

DENISE BARBERI, CASE NO. 03-3824

Appeal from dismissal

Caltrans Equipment Operator II

Department of Transportation

ACTION: Dismissal sustained.

JAMES BUGERA, CASE NO. 04-0905

Appeal from dismissal

Transportation Engineer (Civil)

Department of Transportation

ACTION: Dismissal modified to a formal reprimand.

CALVIN CAMPBELL III, CASE NO. 03-0626
Appeal from 45-working-days suspension
Correctional Lieutenant
California State Prison - Lancaster
Department of Corrections
ACTION: 45-working days suspension
sustained.

BEATRICE DELEON, CASE NO. 03-2903
Appeal from 30-working-days suspension
Motor Vehicle Field Representative, Range C
Department of Motor Vehicles
ACTION: 30-working-days suspension
modified to 20-working days suspension.

ANDREW DRAL, CASE NO. 04-0851
Appeal from five-working-days suspension
Investment Officer II, Retirement Systems
California Public
Retirement System
CalPERS)
ACTION: Five-working-days suspension
modified to an official reprimand.

GEOFFREY DYER, CASE NO. 04-0645
Appeal from a five-percent reduction
in salary for three months
Senior Hydroelectric Plant Operator
Department of Water Resources
ACTION: Five-percent reduction in salary for
three months modified to a formal reprimand.

JOHN ELIZALDE, CASE NO. 04-0299
Appeal from five-percent reduction in
salary for three months
Correctional Officer
California State Prison - Wasco
Department of Corrections
ACTION: Proposed decision rejected by Board
and remanded to Administrative Law Judge.

JOHN FLORES, CASE NO. 03-2588E
Appeal of retaliation
Hospital Peace Officer I
Department of Mental Health
ACTION: Proposed decision rejected by
Board. Board to decide case itself.

DAVID GONZALEZ, CASE NO. 04-1139
Appeal from dismissal
Correctional Officer
California State Prison - Wasco
Department of Corrections
ACTION: Dismissal sustained.

MIKE GUERRERO, CASE NO. 03-3673E
Appeal from discrimination
complaint
Senior Investigator
Department of Consumer Affairs
ACTION: Complaint dismissed.

RICHARD HARMON, CASE NO. 03-3739
Appeal from dismissal
Psychiatric Technician Assistant
Department of Developmental Services
ACTION: Proposed decision rejected by
Board. Board to decide case itself.

ROYCE HENSON, CASE NO. 02-3501E
Appeal from retaliation complaint
Staff Services Manager II (Supervisor)
Department of Forestry and Fire Protection
ACTION: Proposed decision rejected by Board.
Board to decide case itself.

KATHRYN KIDD, CASE NO. 04-0395
Appeal from dismissal
Child Support Specialist II
Department of Child Support Services -
Merced
ACTION: Dismissal modified to a 30-calendar
day suspension.

ERROL LEWIS, CASE NO. 04-0082
Appeal from dismissal
Youth Correctional Counselor
Department of the Youth Authority
ACTION: Dismissal sustained.

EDWARD LIMON, CASE NO. 04-0233
Appeal from dismissal
Parole Agent I
Department of the Youth Authority
ACTION: Proposed decision rejected by Board.
Board to decide case itself.

WENDY MARSHALL, CASE NO. 03-1117E
Appeal from denial of request for reasonable
accommodation
Senior Legal Typist
Unemployment Insurance Appeals Board
ACTION: Appeal for reasonable
accommodation denied.

LAWRENCE McCARTHY, CASE NO. 04-0874
Appeal from five-work-day suspension
Labor Relations Specialist
Department of Corrections - Sacramento
ACTION: Five-work-days suspension
sustained.

LEO OORTS, CASE NO. 03-3104
Appeal from dismissal
Network Analyst
California State University - Long Beach
ACTION: Dismissal sustained.

AMY PAPER, CASE NO. 02-3355E
Appeal from discrimination complaint
Correctional Officer
Correctional Training Facility - Soledad
Department of Corrections
ACTION: Complaint dismissed.

JACOB RUIZ, CASE NO. 04-0080
Appeal from two-months suspension
Caltrans Landscape Maintenance Worker
Department of Transportation
ACTION: Two-months suspension sustained.

RICHARD D. SANDERS, CASE NO. 04-0315
Appeal from official reprimand
Teacher HS-General Education (CF)
California State Prison – Solano
Department of Corrections
ACTION: Official reprimand sustained.

BARBARA SCARBROUGH, CASE NO. 04-0720E
Appeal from failure to investigate/timely
investigate complaints
Program Technician
Folsom State Prison - Represa
Department of Corrections
ACTION: Appeal dismissed for lack of
jurisdiction.

BRUCE WELLS, CASE NO. 02-1954
Appeal from dismissal
Transportation Surveyor
Department of Transportation
ACTION: Dismissal sustained.

- Proposed Decisions Taken Under Submission
At Prior Meeting
These are ALJ proposed decisions taken under
submission at a prior Board meeting, for lack of
majority vote or other reason.

NONE

- Proposed Decisions After Board Remand

NONE

- Proposed Decisions After SPB Arbitration

ANTHONY ODELL, CASE NO. 04-0042
Appeal from two-working-days suspension
Sergeant
California Highway Patrol
ACTION: Two-working-days suspension
revoked.

E. PETITIONS FOR REHEARING

- ALJ Proposed Decisions Adopted By The
Board
The Board will vote to grant or deny a petition
for rehearing filed by one or both parties,
regarding a case already decided by the
Board.

PHILLIP BROWN, CASE NO. 03-3341
Appeal from dismissal
Janitor
Employment Development Department
Petition for rehearing filed by appellant
denied.

JOHN CARTIER, CASE NO. 03-1588
Appeal from dismissal
Correctional Officer
High Desert State Prison - Susanville
Department of Corrections
Petition for rehearing filed by appellant
denied.

GARY CORNWELL, CASE NO. 00-0457
Appeal from dismissal
Officer
California Highway Patrol
Petition for rehearing filed by respondent
denied.

- Whistleblower Notice of Findings
The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

ANN R. ABIERAS, CASE NO. 04-0531A
Appeal from ten-percent reduction
in salary for twelve months
Psychiatric Technician Assistant
Department of Developmental Services
NO ACTION

DONALD ATKINS, CASE NO. 03-1448A
Appeal from five-percent reduction
in salary for six months
Correctional Officer
California State Prison, San Quentin
Department of Corrections at San Quentin
NO ACTION

NICHOLAS COMAITES, CASE NO. 03-0062A
Appeal from official reprimand
Correctional Counselor II
Department of Corrections
AND
PAUL WARD, CASE NO. 03-0332A
Appeal from official reprimand
Correctional Administrator
Department of Corrections
NO ACTION

EVELYN B. CORPUS, CASE NO. 04-0529A
Appeal from ten-percent reduction in
salary for twelve months
Psychiatric Technician Assistant
Department of Developmental Services
NO ACTION

MICHELLE DAWKINS, CASE NO. 03-2755R
Appeal from demotion
Fiscal Services Supervisor to Typist Clerk III
Human Services Agency, Merced County
NO ACTION

DEBRA GREENE, CASE NO. 03-0621A
Appeal from dismissal
Motor Vehicle Field Representative
Department of Motor Vehicles
NO ACTION

MARTIN HERNANDEZ, CASE NO. 02-4449A
Appeal from demotion
Correctional Sergeant
Calipatria State Prison – Imperial
Department of Corrections
NO ACTION

MARY HUTTNER, CASE NO. 02-1690R
Appeal from demotion
Staff Services Manager I to the
position of Associate Health Program
Advisor (top step)
Department of Health Services
NO ACTION

CONNIE JAMES, CASE NO. 03-3136A
Appeal from 15-working days suspension
Accounting Technician
Employment Development Department
NO ACTION

CONNIE JOHNSON, CASE NO. 03-2620A
Appeal from 30-calendar-days suspension
Employment Program Representative
Employment Development Department
NO ACTION

HUGO LANDEROS, CASE NO. 03-3190A
Appeal from dismissal
Employment Program Representative
Employment Development Department
NO ACTION

JACQUELYN McCARVER, CASE NO. 03-0669A
Appeal from demotion
Correctional Sergeant
Rainbow Conservation Center - Fallbrook
Department of Corrections
NO ACTION

LEIJANE OGAWA, CASE NO. 03-2943A
Appeal from discrimination
Office Assistant (General)
Department of Transportation
NO ACTION

VIRGINIA PARKER, CASE NO. 03-0325A
Appeal from demotion
Correctional Lieutenant
Ironwood State Prison – Blythe
Department of Corrections
NO ACTION

KEVIN REDDINGTON, CASE NOS. 03-2646 &
03-0386R

Appeal from ten-percent reduction in salary
For six pay periods, and dismissal
Office Technician (Typing)
Department of Forestry and Fire Protection
NO ACTION

KIM RITTENHOUSE, CASE NOS. 03-3541A &
03-3542A

Appeal from denial of reasonable accommodation
And from constructive medical termination
Office Technician (General)
Department of Fish and Game
NO ACTION

PEARLIE BLEDSOE-TOWNES, CASE NO. 03-2966A

Appeal from denial of request for reasonable
Accommodation
Correctional Sergeant
Central California Women's Facility – Chowchilla
Department of Corrections
NO ACTION

DENNIS UYEDA, CASE NO. 03-2396A

Appeal from five-working-days suspension
Latent Print Analyst II
Department of Justice
NO ACTION

NANCY VALENTINO, Case No. 03-0699R

Appeal from dismissal
Psychiatric Technician
Department of Developmental Services
NO ACTION

GARY WHALEY, CASE NO. 03-1420A

Appeal from discrimination
Employment Program Representative
Employment Development Department
NO ACTION

17. RESOLUTION EXTENDING TIME UNDER GOVERNMENT
CODE SECTION 18671.1 EXTENSION
(See Minutes Pages 26-27)

18. NON-EVIDENTIARY CASES

On August 12, 2004, the Board adopted by majority vote (Elkins, Alvarado, Harrigan, Sheehan and Tom) the following decisions presented by Laura Aguilera, Assistant Executive Officer, State Personnel Board.

A. WITHHOLD APPEALS

RAUL AREVALO, CASE NO. 03-1383

Classification: Cadet

Department: California Highway Patrol

ACTION: DENIED

NORMAN CRAMER, CASE NO. 03-1029

Classification: Correctional Officer

Department: Department of Corrections

ACTION: Retracted from agenda by SPB staff. Not for Board consideration.

LANCE FLORES, CASE NOS. 03-1524 &
03-1525

Classification: Fire Apparatus Engineer and Fire
Fighter II

Department: Forestry and Fire Protection

ACTION: DENIED

ANDREW KRESCENT, CASE NO. 03-1566

Classification: Correctional Officer

Department: Department of Corrections

ACTION: DENIED

DONALD MACOMBER, CASE NO. 03-3436

Classification: Correctional Officer

Department: Department of Corrections

ACTION: DENIED

CHRISTOPHER NYSTOM, CASE NO. 03-3285

Classification: Correctional Officer

Department: Department of Corrections

ACTION: DENIED

LINDA PINA, CASE NO. 03-3207

Classification: Correctional Officer

Department: Department of Corrections

ACTION: DENIED

NICOLE PROWSE, CASE NO. 03-3115
Classification: Correctional Officer
Department: Department of Corrections
ACTION: DENIED

FREDDY RIVERA, CASE NO. 03-2666
Classification: Correctional Officer
Department: Department of Corrections
ACTION: DENIED

MOHINDER SOHI, CASE NO. 03-1764
Classification: Accountant Trainee
Department: Department of Fish and Game (DFG)
ACTION: DENIED

SEAN UEDA, CASE NO. 03-2845
Classification: Correctional Officer
Department: Department of Corrections
ACTION: DENIED

CHRISTINA WILLIAMS, CASE NO. 03-3635
Classification: Correctional Officer
Department: Department of Corrections
ACTION: DENIED

(Dismissed Case)

ESMERALDA SALDIVAR, CASE NO. 03-2940
Classification: Correctional Officer
Department: Department of Mental Health
ACTION: DISMISSED

B. MEDICAL AND PSYCHOLOGICAL SCREENING
APPEALS

AHLIAH COOK, CASE NO. 03-3451
Classification: Correctional Officer
Department:
ACTION: DENIED

Department of Corrections
LAURA ROLDAN, CASE NO. 03-2077
Classification: Correctional Officer
Department: Department of Corrections
ACTION: DENIED

- C. EXAMINATION APPEALS - NONE
MINIMUM QUALIFICATIONS - NONE
MERIT ISSUE COMPLAINTS - NONE
- D. RULE 212 OUT-OF-CLASS APPEALS - NONE
VOIDED APPOINTMENT APPEALS - NONE
RULE 211 APPEALS - NONE
- E. REQUEST TO FILE CHARGES CASES - NONE
PETITIONS FOR REHEARING CASES - NONE
- F. PSYCHOLOGICAL SCREENING CASES

PATRICIO COTA, CASE NO. 04-0406

Classification: Correctional Officer

Department: Department of Corrections

ACTION: GRANTED

EFRAIN ORTIZ, CASE NO. 04-0921

Classification: Correctional Officer

Department: Department of Corrections

ACTION: GRANTED

19. NON-HEARING CALENDAR

NONE

20. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

Staff has approved the following:

The Department of Personnel Administration (DPA) requests to change the minimum qualifications for the Personnel Program Manager (PPM) II classification by adding an additional promotional pattern, which will allow Staff Personnel Program Analysts (SPPA) the opportunity to compete in examinations for the PPM II.

ACTION: Noted

21. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY
ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS
CURRENTLY UNDER CONSIDERATION

(1) CHIEF, OFFICE OF POLICY, PROJECT &
PERFORMANCE REVIEW

The Department of Motor Vehicles proposes to allocate the above position to the CEA category. The Chief, Office of Policy, Project & Performance Review develops and establishes policies and procedures regarding a departmental performance review process that will ensure that the department's significant projects and other major service delivery improvement efforts are handled efficiently and effectively.

(2) LEGISLATIVE DIRECTOR

The Department of Insurance proposes to allocate the above position to the CEA category. The Legislative Director provides policy advice and direction to the Insurance Commissioner, Chief Deputy Commissioner, Chief Deputy Commissioner, Operations and Executive Staff on a wide variety of issues related to the Department's legislative program.

(3) CHIEF, COMPLIANCE OFFICER

The California Public Employees' Retirement System (CalPERS) proposes to allocate the above position to the CEA category. The Chief Compliance Officer acts as primary consultant to the Finance Committee and Executive Management on formulating policies and procedures relating to internal compliance issues concerning all programs administered by CalPERS.

(4) ASSISTANT CHIEF DEPUTY DIRECTOR

The Department of Alcoholic Beverage Control proposes to allocate the above position to the CEA category. The Assistant Chief Deputy Director provides policy advice and consultant

to the Director on a wide variety of regulatory, legislative, community, and industry issues.

B. EXECUTIVE OFFICER DECISIONS REGARDING
REQUESTS TO ESTABLISH NEW CEA POSITIONS

NONE

ACTION: Noted

22. WRITTEN STAFF REPORT FOR BOARD INFORMATION

23. PRESENTATION OF EMERGENCY ITEMS AS
NECESSARY

A D J O U R N M E N T

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC. Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002)

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES). Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002)

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)
The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003)

NO ACTION

3. HEARING – PSC #04-03
Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Presented to Board August 12, 2004)

NO ACTION

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on August 12, 2004.

VOTE: Elkins, Alvarado, Harrigan, Sheehan and Tom – Aye.

FLOYD SHIMOMURA
Executive Officer
California State Personnel Board

Corrections

1. The June 8, 2004, State Personnel Board Summary Minutes of the June 8, 2004, State Personnel Board Meeting, incorrectly listed Christine Lieber, Case Nos. 03-1457, 03-1458 and 03-1459, as Merit Issue Complaint Cases instead of Minimum Qualifications Cases. It also showed that the cases were denied, when they were actually granted by the Board. The actual case decisions do reflect that the cases were granted.
2. The July 7, 2004, State Personnel Board Summary Minutes of the July 7, 2004, State Personnel Board Meeting, incorrectly listed Rueben Sanchez, Case No. 03-2739 (Withhold Case), as a case heard by the Board. The correct name that should have been listed is Kimberly Sanchez, Case No. 03-2739. The appeal case was also shown as denied, when it was actually granted by the Board. The actual case decision does reflect that the case was granted.
3. There was an error on the Pending Litigation for the August 12, 2004, Calendar. The correct Pending Litigation is as follows:

State Personnel Board v. Department of Personnel Administration, California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association, California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court Case No. S125502.

International Union of Operating Engineers v. State Personnel Board, Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

Please accept our sincere apology for any inconvenience these typing errors may have caused.